



ORIGINAL

Federal Communications Commission
Washington, D.C. 20554

SEP 10 1998

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IN REPLY REFER TO:
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SEP 14 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. Vernon P. Thayer
Self Help for Hard of Hearing People
166 Nob Hill
Rochester, New York 14617

Dear Mr. Thayer:

Senator Daniel Patrick Moynihan has asked that I respond to your letter regarding the Commission's implementation of Section 255 of the Communications Act (Section 255), added by the Telecommunications Act of 1996. Section 255 requires that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so. In adopting Section 255, Congress gave the Commission two specific responsibilities, to exercise exclusive jurisdiction with respect to any complaint filed under Section 255, and to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for the accessibility of telecommunications equipment and customer premises equipment.

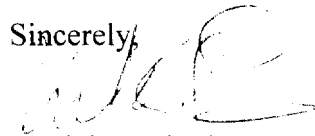
The Commission adopted a Notice of Inquiry in September 1996, initiating WT Docket 96-198 and seeking public comment on a range of general issues central to the Commission's implementation of Section 255. The Commission also adopted a Notice of Proposed Rule Making (NPRM) in April 1998, which sought public comment on a proposed framework for that implementation. The NPRM examined the Commission's legal authority to establish rules implementing Section 255, including the relationship between the Commission's authority under Section 255 and the guidelines established by the Access Board in February 1998. The NPRM further solicited comment on the interpretation of specific statutory terms that are used in Section 255, including certain aspects of the term "readily achievable," and the scope of the term "telecommunications services." In addition, the NPRM sought comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The centerpiece of these proposals was a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions.

It is important to note that the Commission has not issued a final decision regarding any of the proposals suggested in the NPRM. The record in this proceeding closed on

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August 14, 1998, and the Commission staff is currently reviewing public comments. Since the passage of Section 255, the Commission has worked closely with the Access Board and with various commenters to design an implementation framework that best reflects the intent of Congress in adopting Section 255. Your comments will be included as an informal comment in the record of WT Docket 96-198, and carefully considered, along with the many other comments, before final action is taken on this critically important matter. I appreciate your input as a way of establishing as thorough and representative a record as possible on which to base final rules implementing Section 255.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. B. Phythyon", written over a horizontal line.

Daniel B. Phythyon
Chief, Wireless Telecommunications Bureau

DANIEL P. MOYNIHAN
NEW YORK



United States Senate
WASHINGTON, DC 20510-3201

CSB
handicap
5338

July 6, 1998

Congressional Liaison
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Sir or Madam:

I am referring the enclosed inquiry from Mr. Vernon P. Thayer regarding the access provisions of the Telecommunications Act of 1996 to your office.

My constituent would appreciate your careful consideration of these remarks, and your thoughts on what remedies there are for this situation. Please respond directly to Mr. Thayer and send a copy to me.

I thank you for your attention to this matter.

Sincerely,

Daniel Patrick Moynihan

Enclosure





Self Help for Hard of Hearing People

166 Nob Hill

Rochester, N.Y., 14617

June 23, 1998

The Hon. Daniel P. Moynihan

U.S. Senate, Washington, DC 20510

Dear Sen. Moynihan,

I am writing to you in reference to the Notice of Proposed Rulemaking from the Federal Communications Commission on the access provisions of the Telecommunications Act of 1996.

I have a profound hearing loss. While I consider myself hard of hearing, I am clinically deaf. Because of my bad hearing, telephone communications for me are sometimes very difficult, and I am deeply concerned that current considerations, if enacted, might weaken the access provisions of the Telecommunication Act of 1996. I am anxious that the Act of 1996 enhance and strengthen the intent of the Americans with Disabilities Act.

I urge that the FCC adopt the Access Board guidelines as published in Feb., 1998. It is important that manufacturers and providers understand their access responsibilities and obligations in the design of new equipment. At present I have not been able to find cellular equipment on which I can communicate. It is important to me for safety reasons, if no other, to be able to use a telephone in my car, and for emergency situations. Currently, I can not do that.

The ADA uses the term "readily achievable" to describe a company's obligation to make products accessible. Using the concept of "cost recovery" totally undermines the intent of "readily achievable". Allowing a company to determine whether or not accessibility features will pay for themselves is a deviation from ADA intent. Telecoils are not currently mandated for cellular phones. This results in my inability to get a useable phone for my car, as mentioned above.

While I agree that there be no filing fees for complaints, for both users and suppliers, I urge a longer period than 5 days to resolve complaints. It should be at least 10 days, with longer time if more is needed, and requested, for a company to respond to a complaint.

Voice mail and automated voice response is another area of concern to me. Voice mail usually is OK, but if the speech is rapid I have great trouble, and some voices are not easily understood. All demonstrations to date of automated



Self Help for Hard of Hearing People

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voice response have failed me completely.

My hearing loss makes all communication difficult. Telecommunications of all kinds are more difficult, yet very important to all aspects of my life--social, business, and health. Therefore I urge you to contact the Chairman of the FCC, Mr. William E. Kennard, asking him to adhere to the proposed rules for the telecommunications Act as developed by the Access Board. In my view, they are fair and will advance accessibility.

Sincerely yours,

A handwritten signature in cursive script that reads "Vernon P. Thayer".

Vernon P Thayer